

LAW OFFICES
FRITZ R KAHN, PC
EIGHTH FLOOR
1020 N STREET NW
WASHINGTON DC 20036-1001

(202) 261-1152
FAX (202) 331-8330
e-mail mrca@fritzrka.com

224672

ORIGINAL



March 12, 2009

VIA HAND DELIVERY - RETURN STAMPED COPY

Hon Anne K Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

FILED

MAR 12 2009

**SURFACE
TRANSPORTATION BOARD**

Dear Secretary Quinlan

Enclosed for filing in STB Docket No AB-397 (Sub-No 6X), Tulare Valley Railroad Company--Discontinuance of Service Exemption--in Tulare County, CA, are the original and ten copies of the Notice of Exempt Discontinuance of Tulare Valley Railroad Company

This firm's check for \$3,700 in payment of the filing fee is attached

Additional copies of this letter and of the Notice are enclosed for you to stamp to acknowledge your receipt of them and to return to me via the messenger.

If you have any question concerning the filing or if I otherwise can be of assistance, please get back to me

Sincerely yours,


Fritz R Kahn

ENTERED
Office of Proceedings
MAR 12 2009
Part of
Public Record

enc

cc. Mr Michael J Van Wagenen

224672

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC

ORIGINAL

STB Docket No AB-397 (Sub-No 6X)

TULARE VALLEY RAILROAD COMPANY
--DISCONTINUANCE OF SERVICE EXEMPTION--
IN TULARE COUNTY, CA



NOTICE OF EXEMPT DISCONTINUANCE
OF
TULARE VALLEY RAILROAD COMPANY

FILED

MAR 12 2009

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
MAR 12 2009
Part of
Public Record

Fritz R. Kahn
Fritz R. Kahn, P.C.
1920 N Street, NW (8th fl.)
Washington, DC 20036
Tel (202) 263-4152

Dated March 12, 2009

FEE RECEIVED

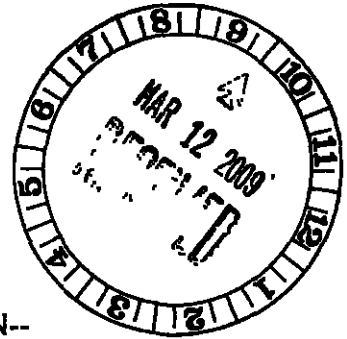
MAR 12 2009

**SURFACE
TRANSPORTATION BOARD**

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No AB-397 (Sub-No. 6X)

**TULARE VALLEY RAILROAD COMPANY
--DISCONTINUANCE OF SERVICE EXEMPTION--
IN TULARE COUNTY, CA**



**NOTICE OF EXEMPT DISCONTINUANCE
OF
TULARE VALLEY RAILROAD COMPANY**

Tulare Valley Railroad Company ("TVR"), a Class III railroad subject to this Board's jurisdiction, pursuant to 49 U S C. 10903 and 49 C F R 1152.50, states, as follows:

- 1 The railroad line over which service is proposed to be discontinued extends between Milepost 66.0 at or near Ultra and Milepost 71+2969.2 at or near Ducor, a distance of 5.9 miles in Tulare County, California
2. The anticipated consummation date is May 4, 2009.
3. TVR, by the attached Verification of its Vice President, Michael J. Van Wagenen, certifies that no local traffic has moved over the railroad line for at least two years' time, and any overhead traffic on the line can be rerouted over other lines.
- 4 TVR, by the attached Verification of its Vice President, Michael J. Van Wagenen, further certifies that no formal complaint by a user of rail service on the railroad line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending before the Board or any U.S. District Court or has been decided in favor of a user within the two year period.

5. The exact name of the entity seeking the discontinuance authority is Tulare Valley Railroad Company.

6. TVR is a common carrier by railroad subject to 49 U.S.C Subtitle IV, chapter 105, having acquired the line by the Decision of the Interstate Commerce Commission in Finance Docket No 32215, Tulare Valley Railroad Company--Acquisition and Operation Exemption--The Atchison, Topeka & Santa Fe Railway Company, served January 13, 1993

7 TVR seeks the Board's authorization to discontinuance rendering service over the subject line.

8 A map of the subject line is attached as Exhibit A

9 The representative of TVR to whom correspondence should be addressed is:

Fritz R Kahn
Fritz R Kahn, P C.
1920 N Street, NW (8th fl)
Washington, DC 20036
Tel.: (202) 263-4152

10. The United States Postal Zip Codes traversed by the railroad line are 93270 and 93218.

11 Since this is a proposed discontinuance, trail use/rail banking and public use conditions would be inappropriate ¹ Offers to subsidize continued service on the line for one year's time may be filed pursuant to 49 C.F.R. 1152.27.

¹ See, STB Docket No. AB-286 (Sub-No 5X), The New York, Susquehanna and Western Railway Corporation--Discontinuance of Service Exemption--in Broome and Chenango Counties, NY, served August 29, 2008; STB Docket No AB-290 (Sub-No. 307X), Norfolk Southern Railway Company--Discontinuance of Service Exemption--in St. Joseph and LaPorte Counties, IN, served June 18, 2008; STB Docket No. AB 721X, Everett Railroad Company--Discontinuance of Service Exemption--in Blair County, PA, served November 16, 2007

12 No employee of TVR is expected to be adversely affected by the proposed discontinuance, but TVR understands that Board's decision will be subject to the employee protective conditions of Oregon Short Line R. Co.--Abandonment--Goshen, 360 I C C 91 (1979).

13 Since this is a discontinuance proposal, no environmental or historic report is required See, footnote 1

14 TVR has given notice of the proposed discontinuance as required by 49 C.F.R. 1152.50(d) (1), and copies of the letters to the designated officials are attached as Exhibit B

14. TVR has complied with the notice requirement of 49 C.F.R. 1105.11 by having a notice published in the March 2, 2009, edition of the Tulare Advance-Register, a newspaper of general circulation in Tulare County, California. A copy of the affidavit of publication is attached as Exhibit C

WHEREFORE, Tulare Valley Railroad Company asks that the notice of exempt discontinuance be accepted and allowed to become effective

Respectfully submitted,

TULARE VALLEY RAILROAD COMPANY

By its attorney,



Fritz R. Kahn

Fritz R. Kahn, P C

1920 N Street, NW (8th fl.)

Washington, DC 20036

Tel.. (202) 263-4152

Dated. March 12, 2009

EXHIBIT A

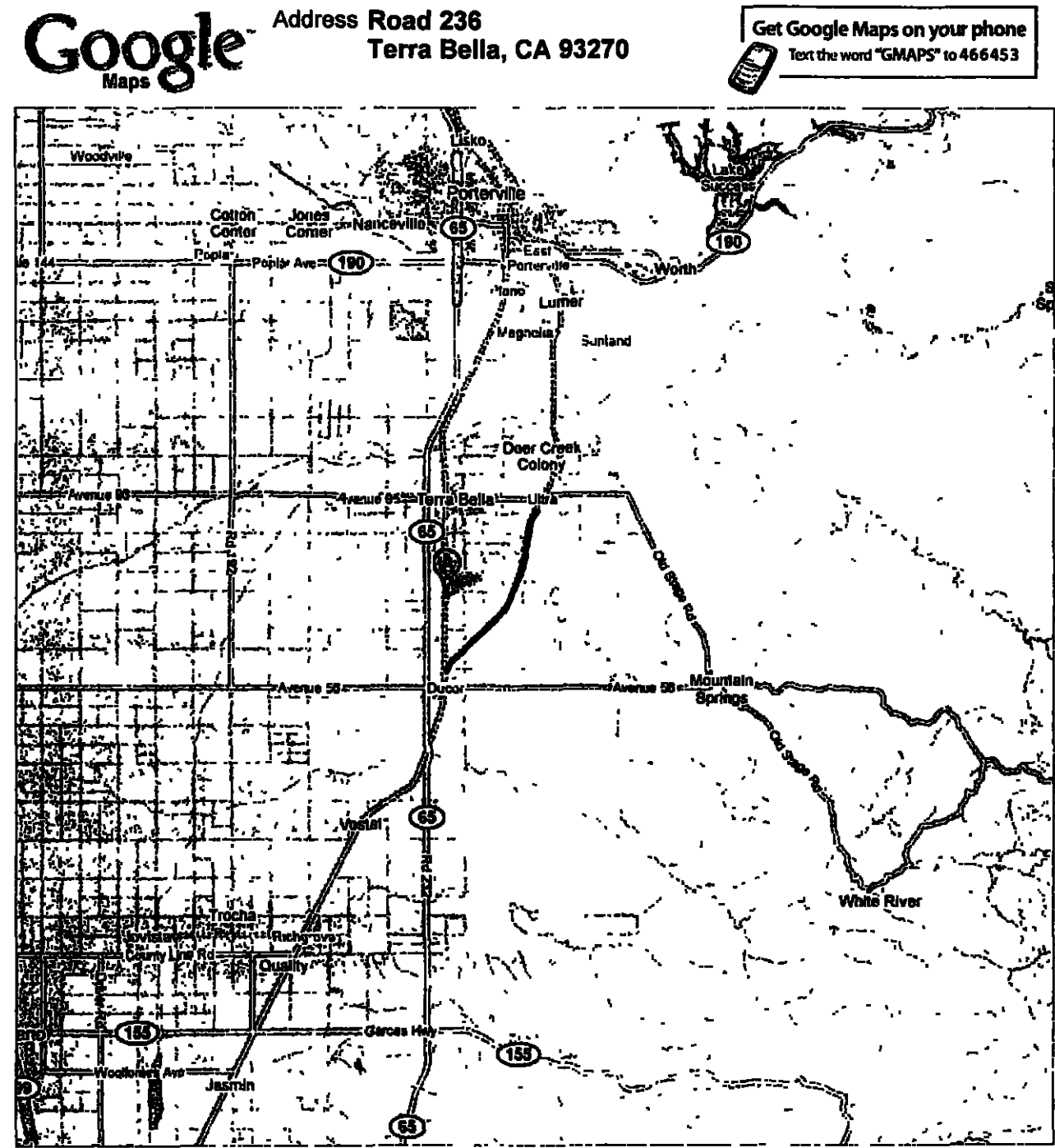


EXHIBIT B

LAW OFFICES
FRITZ R. KAHN, P.C.
1920 N STREET, NW (8TH FL)
WASHINGTON, DC 20036
Tel (202) 263-4152 Fax (202) 331-8330
e-mail xicccg@verizon.net

February 23, 2009

Mr. D. Thomas Ross, Assistant Director
Recreation and Conservation
National Park Service - Dept. of Interior
1849 C Street, NW
Washington, DC 20240-0001

Dear Mr. Ross:

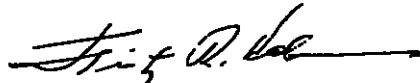
Please be advised that on or about March 12, 2009, Tulare Valley Railroad Company will file with the Surface Transportation Board its Notice of Exempt Discontinuance to cease rendering service on the railroad line extending between Milepost 66.0 at or near Ultra and Milepost 71+2969.2 at or near Ducor, a distance of 5.9 miles in Tulare County. The filing will be docketed as STB Docket No. AB-397 (Sub-No. 6X).

The line traverses U.S. Postal Service Zip Codes 93270 and 93218.

Based on information in the possession of Tulare Valley Railroad Company, the railroad line does not contain any federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

If you have any question concerning the foregoing, please get back to me.

Sincerely yours,



Fritz R. Kahn

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February 23, 2009

MSDDC - Transp Engineering Agency
Attn SDTE-SA (Railroads for National Defense)
709 Ward Drive, Bldg 1990
Scott AFB, IL 62225-5357

Dear Sir/Madam


Please be advised that on or about March 12, 2009, Tulare Valley Railroad Company will file with the Surface Transportation Board its Notice of Exempt Discontinuance to cease rendering service on the railroad line extending between Milepost 66 0 at or near Ultra and Milepost 71+2969 2 at or near Ducor, a distance of 5.9 miles in Tulare County. The filing will be docketed as STB Docket No AB-397 (Sub-No 6X)

The line traverses U S Postal Service Zip Codes 93270 and 93218

Based on information in the possession of Tulare Valley Railroad Company, the railroad line does not contain any federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

If you have any question concerning the foregoing, please get back to me

Sincerely yours,



Fritz R. Kahn

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1920 N STREET, NW (8TH FL.)
WASHINGTON, DC 20036
Tel (202) 263-4152 Fax (202) 331-8330
e-mail xiccgc@verizon.net

February 23, 2009

Hon. Michael R. Peevey, President
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear President Peevey:


Please be advised that on or about March 12, 2009, Tulare Valley Railroad Company will file with the Surface Transportation Board its Notice of Exempt Discontinuance to cease rendering service on the railroad line extending between Milepost 66.0 at or near Ultra and Milepost 71+2969.2 at or near Ducor, a distance of 5.9 miles in Tulare County. The filing will be docketed as STB Docket No. AB-397 (Sub-No. 6X).

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Sincerely yours,


Fritz R. Kahn

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WASHINGTON, DC 20036
Tel (202) 263-4152 Fax (202) 331-8330
e-mail xiccgc@verizon.net

February 23, 2009

Land Resources Division
National Park Service - Dept of Interior
800 North Capitol St. NE (#540)
Washington, DC 20002

Dear Sir/Madam

Please be advised that on or about March 12, 2009, Tulare Valley Railroad Company will file with the Surface Transportation Board its Notice of Exempt Discontinuance to cease rendering service on the railroad line extending between Milepost 66.0 at or near Ultra and Milepost 71+2969.2 at or near Ducor, a distance of 5.9 miles in Tulare County. The filing will be docketed as STB Docket No. AB-397 (Sub-No. 6X).

The line traverses U.S. Postal Service Zip Codes 93270 and 93218.

Based on information in the possession of Tulare Valley Railroad Company, the railroad line does not contain any federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

If you have any question concerning the foregoing, please get back to me.

Sincerely yours,


Fritz R. Kahn

EXHIBIT C

Certificate of Publication

State Of California ss:
County of Tulare

Advertiser: LAW OFFICES OF FRITZ R KAHN
1920 N STRETT NW (8TH FL)
WASHINGTON , 20036

0000084097

STB No. AB-397 (Sub-No. 6X)
NOTICE OF INTENT TO DISCONTINUE SERVICE
Tulare Valley Railroad Company gives notice that on or about March 15, 2009, it intends to file with the Surface Transportation Board, Washington, DC 20423, a Notice of Exception pursuant to 49 C.F.R. 1152.50 permitting the discontinuance of a line of railroad between Milepost 66.0 at or near Ultra and Milepost 71.129692 at or near Duccor (a distance to 5.9 miles) in Tulare County, California. The proceeding is docketed as STB Docket AB-397 (Sub-No. 6X).
The Board's Section of Environmental Analysis (OESEA) will generally prepare an Environmental Assessment (EA) which will normally be available 25 days after the filing of the Notice of Exception. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 395 E Street, SW, Washington, DC 20423 or by calling that Section at (202) 245-0295.
Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raised matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 395 E Street, SW, Washington, DC 20423 [See 49 C.F.R. 1104.1(a)], and one copy must be served on the railroad's representative [Sec. 49 C.F.R. 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Services at (202) 245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative, Fritz R. Kahn, Esq., Fritz R. Kahn, P.C., 1920 N Street, NW, (8th fl.), Washington, DC 20036-1601, Tel. (202) 263-4152.
Publish: March 2, 2009 184097

RE: STB No AB-397 (Sub-No 6X) NOTICE OF IN

I, Anna Vargas, Accounting Clerk, for the below mentioned newspaper(s), am over the age of 18 years old, a citizen of the United States and not a party to, or have interest in this matter. I hereby certify that the attached advertisement appeared in said newspaper on the following dates:

Newspaper

Tulare Adv-Register

3/2/2009

I acknowledge that I am a principal clerk of said paper which is printed and published in the City of Visalia, County of Tulare, State of California. The Visalia Times Delta was adjudicated a newspaper of general circulation on July 25, 2001 by Tulare County Superior Court Order No. 41-20576. The Tulare Advance Register was adjudicated a newspaper of general circulation on July 25, 2001 by Superior Court Order No. 52-43225.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 4 day of MARCH, 2009 in Visalia, California.



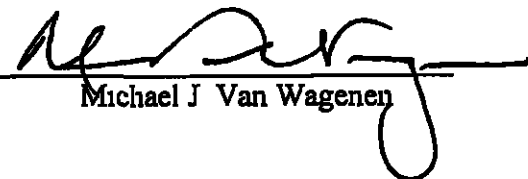
Declarant

Dated March 12, 2009

VERIFICATION

I, Michael J Van Wagenen, Vice President of Tulare Valley Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Verified Notice of Exemption and that its assertions are true and correct to the best of my knowledge, information and belief. No local traffic has moved over the subject line for at least two years' time, and any overhead traffic on the line can be rerouted over other lines. Moreover, no formal complaint by a user of rail service on the subject line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the subject line is pending before the Board or any U S District Court or has been decided in favor of a user within the two year period. I further declare that I am qualified and authorized to submit this verification on behalf of Tulare Valley Railroad Company. I know that willful misstatements or omission of material fact constitute Federal criminal violations punishable under 18 U S C 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U S C 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Salt Lake City, Utah, this 12th day of March 2009


Michael J Van Wagenen